

**Securities Escrow Agreement**

This agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between \_\_\_\_\_, a \_\_\_\_\_ corporation, hereinafter referred to as "The Issuer", and \_\_\_\_\_, hereinafter referred to as the "Escrow Agent" and \_\_\_\_\_, security holder of the above Issuer, hereinafter referred to as "Security Holder".

WHEREAS, a Registration Statement, pursuant to Act 265 of the Public Act of 1964, as amended, has been filed with the Office of Financial and Insurance Services (OFIS), Michigan Department of Labor & Economic Growth seeking effective registration under the law of the offering and sale of the following securities of the Issuer:

Title of Each Class of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price per Unit	Proposed Maximum Aggregate Offering Price

AND WHEREAS, one of the requirements of the Department for registration of the above securities is that certain securities be deposited in escrow.

NOW, THEREFORE, in compliance with the above-mentioned requirement and in consideration of the mutual promises, agreements, and undertakings herein outlined, the following conditions (the "Conditions") by and between the parties are agreed to as follows:

(1) Security Holder shall deposit with the Escrow Agent the following securities of which he is the sole owner beneficially and of record: Certificate numbered \_\_\_\_\_ representing \_\_\_\_\_ shares of common stock of the Issuer.

(2) The securities while in escrow:

- a. Will not share in assets in dissolution or liquidation until and unless the remaining Security Holders have been paid a liquidating dividend equal to the public offering price.
- b. Will not be assigned, sold, transferred, or disposed of except by will or pursuant to the laws of descent and distribution either in whole or in part and in the case of every such transfer, the transferee shall execute an escrow agreement identical to this agreement and shall redeposit the securities in escrow under the same terms.
- c. Shall not share in any cash dividend or distribution unless the same is paid out of earned surplus and in furtherance hereof, the Security Holder agrees to donate into the treasury of the issuer any such dividend or distribution not paid out of earned surplus; this condition shall no longer apply if and when all other security holders have received a liquidating dividend equal per share to the offering price of the securities registered as noted above.

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- d. May participate in stock dividend but in that event the Security Holder agrees forthwith to deposit any share so received in escrow upon the same terms as herein set forth.
  - e. May be canceled, transferred or released from escrow by OFIS in whole or in part. None of the said securities shall be canceled without the consent of the Security Holder.
- (3) The Escrow Agent shall release to the Security Holder these securities uncanceled upon any of the following events:
- a. The Issuer has earned an average annual net income per share of 6% of the public offering price (based on the average number of shares outstanding during the period as determined by an audit made by an independent certified public accountant) on the class of securities held in escrow for a two year period beginning after the completion of the public offering.
  - b. The market price of the class of securities held in escrow, as determined from the quotations issued on such class of securities in the NASDAQ System, remains above the greater of the public offering price of \$5.00 per share over any period of six consecutive months after the completion of the public offering.
  - c. The passage of five years from the date on which the public offering is completed.
  - d. Receipt of the order of the OFIS ordering that the securities be released from escrow. Such order may be issued by the OFIS upon a showing by the Issuer or Security Holder that equity demands such release.
- (4) The Issuer shall furnish or cause to be furnished to the OFIS copies of all executed securities escrow agreements.
- (5) The Escrow Agent shall keep a record, simultaneously with the receipt of each such deposit of securities, of the names and addresses of each Security Holder and the amount of their respective interest.
- (6) Upon making delivery to the Security Holder of the securities held in escrow pursuant to paragraph (3) above of this Agreement, the Escrow Agent shall be released from any further liability, it being expressly understood that liability is limited by the terms and provisions set forth herein and that by acceptance of the Agreement, Escrow Agent is acting in the capacity of a depository, and is not as such responsible or liable for the sufficiency, correctness, genuineness or validity of the instruments presented to it.

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(7) The following legend will appear on the reverse side of the escrowed certificates:

- a. THERE SECURITIES MAY BE TRANSFERRED ONLY UPON THE AUTHORIZATION OF AND ACCORDING TO THE INSTRUCTIONS OF THE COMMISSIONER, OFFICE OF FINANCIAL AND INSURANCE SERVICES, DEPARTMENT OF LABOR & ECONOMIC GROWTH.

The issuer shall be responsible for placing the legend on the certificates.

(8) Notice to the Security Holder, his heirs, or assigns as to any action by OFIS with reference to the securities held in escrow by the Escrow Agent shall be full and valid notice if sent by certified mail, prepaid, addressed to the Security Holder at the last address furnished in writing to OFIS by the issuer with reference to the shares held in escrow.

(9) Escrow Agent is authorized to act in reliance upon the sufficiency, correctness, genuineness or validity of any instrument or document or other wiring submitted to it hereunder and shall have no liability with respect to said matters. Escrow Agent shall not be responsible for the marketability of any title. Escrow Agent shall not be liable for any error in judgment or for any act done or omitted by it in good faith. In the event of any dispute or question arising hereunder, Escrow agent shall not be liable if it acts or takes no action in accordance with the opinion of it legal counsel.

(10) Escrow Agent's fee shall be paid in advance by the Issuer. The Security Holder agrees to indemnify and hold harmless the Escrow Agent from any costs, damages, expenses or claims, including attorney's fees, which Escrow Agent may incur or sustain as a result of or arising out of this Escrow Agreement or Escrow Agent's duties relating thereto and will pay them on demand; and the Escrow Agent is hereby given a lien upon, and security interest in, the Property deposited in the Escrow, to secure Escrow Agent's rights to payment or reimbursement.

(11) In the event of any disagreement or the presentation of adverse claims or demands in connection with the securities, Escrow Agent shall, at its option, be entitled to refuse to comply with any such claims or demands during the continuance of such disagreement and may refrain from delivering any item affected thereby, and in so doing, Agent shall not become liable to any party hereto, or to any other person, due to its failure to comply with any such adverse claim or demand. Agent shall be entitled to continue, without liability, to refrain and refuse to act:

- a. Until all the rights of the adverse claimants have been finally adjudicated by a court having jurisdiction of the parties and the items affected thereby, after which time the Agent shall be entitled to act in conformity with such adjudication; or

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- b. Until all differences shall have been adjusted by agreement and Agent shall have been notified thereof and shall have been directed in writing signed jointly or in counterpart by any party hereto and by all persons making adverse claims or demands, at which time Escrow Agent shall be protected in acting in compliance therewith.
- (12) The parties agree that the Escrow Agent may seek adjudication of any adverse claims or demands in either the Circuit Court for the County of \_\_\_\_\_, Michigan, or the United States Federal District Court for the \_\_\_\_\_ District of Michigan, agree to the jurisdiction of either of said Courts over their persons as well as the securities, waive personal service of process, and agree that service of process by certified or registered mail, return receipt requested, to the address set forth below each party's signature to this Agreement shall constitute adequate service.
- (13) The entire agreement of the parties is contained herein any change in terms or conditions herein may only be made in writing signed by all parties hereto. Escrow Agent shall not be charged with knowledge of any fact, including but not limited to performance or nonperformance of any condition, unless it has actually received written notice thereof from one of the parties hereto or their authorized representative clearly referring to this Escrow Agreement. Escrow Agent shall send all notice to the parties by certified or registered mail, return receipt requested, addressed to the address shown below each such party's signature to this Agreement.
- (14) This Escrow Agreement shall be deemed to have been made under and shall be governed by the laws of the State of Michigan in all respect, including matters of construction, validity and performance.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of the day and year first above written.

WITNESSES:

_____	By: _____ (Issuer)
_____	By: _____ (Escrow Agent)
_____	By: _____ (Security Holder)

RETURN COMPLETED DOCUMENT TO:

Office of Financial and Insurance Services  
Securities Section  
P.O. Box 30701  
Lansing, MI 48909-8201



### Michigan Department of Labor & Economic Growth

The Department of Labor & Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, political beliefs or disability. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

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